

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA  
JOHNSTOWN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No: 14-cr-23

vs.

Johnstown, Pennsylvania  
October 14, 2014

JOSEPH D. MAURIZIO, JR.,

Defendant.

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TRANSCRIPT OF ARRAIGNMENT PROCEEDINGS  
BEFORE KEITH A. PESTO  
DISTRICT MAGISTRATE JUDGE

A-P-P-E-A-R-A-N-C-E-S

FOR THE GOVERNMENT: Stephanie L. Haines, AUSA  
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1 P R O C E E D I N G S

2 (The proceedings convened on October 14, 2014, at 9:30  
3 a.m.)

4 THE COURT: Before we begin, can I see counsel at  
5 sidebar.

6 MS. HAINES: Your Honor, we would request that it  
7 be on the record.

8 THE COURT: Yeah, I'm going to talk with counsel,  
9 come on over. It's off the record.

10 (Off-the-record discussion at sidebar.)

11 (The following proceedings were held in open  
12 court:)

13 THE COURT: Are both counsel ready?

14 MR. PASSARELLO: Yes, Your Honor.

15 MS. HAINES: Yes, Your Honor.

16 THE COURT: Let's go on the record. It's a  
17 little after 9:30 on Tuesday October 14, 2014. We're in  
18 Courtroom A in Johnstown for the arraignment in the  
19 United States of America v. Joseph Maurizio, Jr.,  
20 Criminal Number 14-23.

21 The government is present represented by Attorney  
22 Haines, and the defendant is present represented by  
23 Attorney Passarello.

24 Sir, since the time we were here last, a grand  
25 jury has returned an indictment against you, and this

1 proceeding is an arraignment at which you formally would  
2 enter a plea of not guilty.

3 Attorney Passarello, do you want a reading of the  
4 indictment or have you received a copy? Would you like  
5 me to summarize it?

6 MR. PASSARELLO: No, Your Honor. I've received a  
7 copy, read it, and reviewed it with my client, so we  
8 would waive reading.

9 THE COURT: Very well. All right. Have you had  
10 enough time to go over the provisions of the indictment  
11 for purposes of entering a plea?

12 MR. PASSARELLO: I have, Your Honor.

13 THE COURT: And you would enter a plea of not  
14 guilty?

15 MR. PASSARELLO: Plead not guilty.

16 THE COURT: And do you want a trial by judge or  
17 by jury?

18 MR. PASSARELLO: A trial by jury.

19 THE COURT: Very well. And I noticed that you  
20 have filled out the standard motion for the extension of  
21 time to file pretrial motions.

22 MR. PASSARELLO: That is correct, Your Honor.

23 THE COURT: And I've gone ahead and granted that.

24 MR. PASSARELLO: Thank you.

25 THE COURT: All right. I'll set it down for

1 Judge Gibson's attention. The date of your trial, sir,  
2 is governed by the Speedy Trial Act which requires that  
3 you should be tried within about two, three months from  
4 today's date. You can't be rushed into trial unless you  
5 wish to waive -- you have at least 30 days to prepare  
6 and, actually, your counsel has opted to, under the  
7 local rules, ask for additional time to file pretrial  
8 motions, which pushes the start date of trial back.

9 At the same time, the case can't linger out  
10 forever, and after pretrial motions are decided Judge  
11 Gibson will probably have a conference with counsel,  
12 maybe even before pretrial motions are decided he'll  
13 have a conferences with counsel and set an actual trial  
14 date.

15 Now, the other matter that was left open when  
16 this matter was still at the complaint stage was the  
17 question of risk of flight. I received -- what I said  
18 at the last proceeding was that I was not satisfied with  
19 the information that I had concerning possible risk of  
20 flight. Since there was evidence in the record of  
21 substantial ability to travel, a simple home detention  
22 order would not be satisfactory, and I asked counsel to  
23 propose some kind of plan that would ensure that there  
24 was no risk of flight.

25 I received some documents, which I really haven't

1 looked at because they weren't accompanied with anything  
2 that I wanted, which was a plan.

3 So, Counsel, Attorney Passarello, do you have  
4 some kind of plan that you're proposing at this point?

5 MR. PASSARELLO: I do, Your Honor. If I may.

6 THE COURT: Yes.

7 MR. PASSARELLO: We provided the Court with the  
8 financial information that we had at the time that the  
9 Court requested it, and we also have Dick Stern here  
10 today to testify as to certain other accounts.

11 I would indicate to the Court that my plan would  
12 be as follows, my request: Would be a freezing of the  
13 accounts that Father Joe has access to, with of course  
14 the caveat that we would be allowed potentially to  
15 petition this Court if we needed more funds for his  
16 defense.

17 Also, we have filled out the forms and taken the  
18 necessary steps for a property bond. We have got the  
19 appraisal for the Court; we have the title search for  
20 the Court; we have the deed for the Court. I have to  
21 have Father Joe fill out the one form that the Court  
22 needs.

23 My position on the plan is simple. Obviously,  
24 passports's been taken. Accounts, there are numerous  
25 accounts. I will indicate to the Court there are

1 numerous -- the ones that we have given you are the ones  
2 that he has access to still. The other accounts that we  
3 have would be testified to by Mr. Stern that indicates  
4 he does not have access to most of those accounts, and  
5 that if he signs a letter three of those accounts will  
6 remove his access to those. They are all tied to the  
7 church and the church accounts. My plan would be to  
8 freeze them. My plan would be to take his passport. My  
9 plan would be to use his property as a property bond.

10 THE COURT: Okay. When you say "tied to the  
11 church" do you mean they're church accounts that he has  
12 check-signing abilities --

13 MR. PASSARELLO: Yes. He is one of three  
14 signatories on those accounts. They need two. Dick  
15 Stern, I believe on most of them, is the other one.

16 THE COURT: Can he just be taken off those  
17 accounts?

18 MR. PASSARELLO: Yes.

19 THE COURT: Oh, okay.

20 MR. PASSARELLO: If he writes a letter, which we  
21 would do right away. He has already been taken off most  
22 of them, with the exception of three. We can do that  
23 right away. So that would be my position. That would  
24 be my plan.

25 If the Court wants to hear from Dick Stern on the

1 other accounts that are there, he will tell you  
2 basically what I have just told you.

3 The two accounts that he has access to that have  
4 most of the funds, which is in upward of I believe  
5 \$900,000, are at Stifel Nicolaus Financial Services in  
6 Altoona and then at 1st Summit Bank. Those are the  
7 accounts he still has access to. Those are the accounts  
8 that our plan would be, if the Court was concerned about  
9 those financial assets, to freeze.

10 THE COURT: All right. Have you discussed this  
11 at all with the government? I believe in my last order  
12 I said you should call and the two of you should talk it  
13 over, because from the government's point of view -- I  
14 am sure you have your own investigative resources, but  
15 if the proposal is that he divest himself of any control  
16 over any assets that could be used to fund flight, you  
17 would want to be -- the government would wish to be  
18 satisfied that that, in fact, was the case and there  
19 weren't other sources of assets out there. So have you  
20 two talked about what those assets are?

21 MS. HAINES: No, Your Honor, we have not.

22 THE COURT: All right.

23 MS. HAINES: And I would say the position of the  
24 government is a couple things: First of all, I'm not  
25 sure what documents you've been provided with. I have

1 not seen them, and the government would like to see  
2 them. If the Court has been provided them by defense  
3 counsel we are entitled to a copy.

4 Also, if I understand what the defense counsel is  
5 saying, is that they would be willing to do this. Well,  
6 it sounds to me like it hasn't happened yet.

7 THE COURT: No. I think that's what he's saying,  
8 that if I found it to be satisfactory they'll sign the  
9 paperwork. If I don't find it satisfactory there's no  
10 point to doing the paperwork.

11 What I'm curious from your point of view is do  
12 you have any information or suspicion that there might  
13 be assets out there? I mean, I presume --

14 MS. HAINES: Yes.

15 THE COURT: -- all counsel act in good faith all  
16 the time. That's one of the things that makes this  
17 system work. But in the normal course of business we  
18 don't trust witnesses, defendants to tell us -- you  
19 know, you're accusing me of a crime, okay, I'm going to  
20 tell you everything that you need to know. And that  
21 just isn't the way the system works. So I rely on  
22 counsel to discuss what investigative paths you might  
23 wish to take to satisfy yourself that that is, in fact,  
24 the total disclosure.

25 MS. HAINES: We do not believe that is the total



1 amount of money that is accessible. In fact, we also  
2 have information and evidence that a recent transaction  
3 has occurred in excess of \$100,000 out of a separate  
4 account, that I have not heard about from the defense  
5 counsel, by the defendant's power of attorney. And that  
6 about \$127,000 was taken out of another account of the  
7 defendant's and has now been cashed.

8 And we have no idea where that \$127,000-plus is,  
9 other than possibly in the hands of the power of  
10 attorney. And this is a brand new account we just  
11 learned about through our investigation, which is  
12 ongoing as we discover additional accounts out there  
13 with the defendant's name on it, and the defendant  
14 having single signature authority over it. So I believe  
15 there's more than what has been proffered by the defense  
16 and --

17 THE COURT: Okay.

18 MS. HAINES: -- would be happy to talk to the  
19 defense counsel about that.

20 THE COURT: All right. So the short answer to my  
21 question have you taken any investigative steps is yes?

22 MS. HAINES: Yes.

23 THE COURT: Okay. So it sounds to me like at  
24 this point it would be less than fruitful for me to hear  
25 alternative presentations from the two of you. It

1 sounds to me like the best thing would be for the two of  
2 you to sit down and make up a list of what it is that's  
3 out there that needs to be frozen.

4 So let's take a short recess. I'd like to see  
5 counsel at sidebar over here for a second to see how  
6 long that might take. This is not on the record. This  
7 is just over here.

8 (Off-the-record discussion at sidebar.)

9 (The following proceedings were held in open  
10 court:)

11 THE COURT: We've just had a discussion off the  
12 record at which I was explaining to counsel why my wife,  
13 and not I, manage the money in the house. But as to  
14 these financial conditions, I think that instead of  
15 having testimony about this account, this account, this  
16 account, this account, and then question, question,  
17 question, that the better path would be for counsel to  
18 confer with your financial expert and with your agents  
19 about the nature of any financial accounts, the nature  
20 of any controls necessary to divest that as a possible  
21 source of assets that would make it possible for the  
22 defendant to flee, and whether that might lead to some  
23 other investigative problem.

24 So I would like to recess at this time, have  
25 counsel confer about the existence of accounts. And it

1 sounds like both of you are 90 percent on the same page  
2 anyway, but the government also wants to do due  
3 diligence. So then within 10 days of the defendant  
4 disclosing any assets or the existence of any accounts  
5 that might contain assets, if you've checked them out  
6 and find that they don't lead to other things that raise  
7 red flags, if the two of counsel would let me know and  
8 then I can make a final decision. I don't need to hear  
9 testimony from experts that would be much better  
10 spending their time talking with counsel, because you  
11 guys know the financial end of things and I don't.

12 All right. Is that satisfactory to both of  
13 counsel? Attorney Passarello?

14 MR. PASSARELLO: Yes, Your Honor.

15 THE COURT: Attorney Haines?

16 MS. HAINES: That's fine, Your Honor.

17 THE COURT: All right. Then we will recess this  
18 matter with counsel to go confer.

19 One thing that I didn't cover on the record was  
20 Rule 16 material. Attorney Haines, I presume given the  
21 nature of the case and the voluminous records, that Rule  
22 16 is going to take a long time?

23 MS. HAINES: And I've talked with the defense  
24 counsel about getting together and making that happen.

25 THE COURT: Okay. Sir, Rule 16 is a discovery

1 rule that requires the government to turn over  
2 documentary evidence and some statements and scientific  
3 tests and things that they intend to use in their case  
4 against you. They don't have to give you everything  
5 they intend to use, but they do have to give you some  
6 evidence, and then your attorney can go dig for other  
7 stuff. That's proceeding normally.

8 Oftentimes, there is three sheets of paper, and  
9 that gets turned over at this stage. This isn't that  
10 kind of a case, so that's going to be an ongoing thing.  
11 Your counsel's aware of what's going on and he knows how  
12 the drill works.

13 All right. Now, in the meantime, as counsel has  
14 explained, it's going to take about 10 days for the  
15 government and your counsel to go over these financial  
16 records so that they're satisfied that they've presented  
17 everything that I need to know and there isn't anything  
18 out there that I wouldn't know. In the meantime you'll  
19 be detained.

20 Please remember my advice to you at the initial  
21 appearance, which is that anything you say could be used  
22 as evidence against you. The exception to that is  
23 statements that you make to counsel or people that your  
24 attorney tells you are part of the defense team.

25 All right. We're in recess.

1 (Proceedings concluded at 10:20 a.m.)

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4 CERTIFICATE OF OFFICIAL REPORTER

5  
6 I, Kimberly K. Spangler, Federal Official Court  
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